



STATE OF CALIFORNIA
FRANCHISE TAX BOARD

Legal Branch
P. O. Box 1720
Rancho Cordova, CA 95741-1720

STEVE WESTLY
Chair

CAROLE MIGDEN
Member

DONNA ARDUIN
Member

March 31, 2004 Franchise Tax Board Litigation Roster

All cases currently active and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list is also provided of new cases that have been added to the roster for the month as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: www.ftb.ca.gov/law/Lit_roster.pdg.

The Litigation Roster on the Internet site will be the latest version. It is normally revised on a monthly basis.

FRANCHISE AND INCOME TAX
CLOSED CASES – MARCH 2004

Case Name

Court Number

J. H. McKnight Ranch, Inc.

San Francisco Superior Court No. 304383

FRANCHISE AND INCOME TAX
NEW CASES – MARCH 2004

Case Name

Court Number

None

**FRANCHISE AND INCOME TAX
MONTHLY REFUND LITIGATION ROSTER**

MARCH 2004

ACKERMAN, PETER & JOANNE v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC296334

Taxpayer's Counsel

Holly Kendig, Christopher W. Campbell

O'Melveny & Myers, LLP

Filed – 05/23/03

FTB's Counsel

Anthony Sgherzi

- Issues
1. Whether plaintiffs are entitled to a refund of taxes similar to that allowed by the Internal Revenue Service as the result of the settlement of a lawsuit against them for misappropriating the income of various partnerships.
 2. Whether plaintiffs filed timely claims for refund with respect to the years 1992 and 1993.
 3. Whether plaintiffs timely filed the suit for refund.

Years 1992 and 1993 Amount \$4,912,037.26

Status **Defendant's Trial Brief filed on March 16, 2004. Trial scheduled for June 3, 2004.**

AMDAHL CORPORATION v. Franchise Tax Board

San Francisco Superior Court Docket No. 321296

Filed – 05/14/01

Appellate Court 1st District Court No. A101101 (FTB)

Appellate Court 1st District Court No. A101203 (Amdahl)

Taxpayer's Counsel

Timothy K. Roake

Fenwick & West LLP

FTB's Counsel

Kristian Whitten

- Issues
1. Whether Section 25106 was properly applied to the facts of this case in a manner which does not discriminate against foreign commerce.
 2. Whether Section 24411 was properly applied in this case.
 3. Whether Section 24411 discriminates against foreign commerce.
 4. Whether the amount received from the United Kingdom as a credit for amounts paid under the United Kingdom's Advanced Corporate Tax is a dividend for purposes of Sections 24411 and 25106 of the Revenue and Taxation Code.
 5. Whether the amount received from the United Kingdom as a credit for amounts paid under the United Kingdom's Advanced Corporate Tax is gross income.

Years 1988, 1989, 1991 and 1992 Amount \$2,935,439.00

Status **Oral Argument scheduled for May 19, 2004.**

2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years 1974-1982, 1984-1987, 1989-1991 Amount \$2,912,696.00

Status **Notice of Entry of Amended Order Continuing Trial Setting Conference to July 6, 2004, filed March 16, 2004.**

EDUCATIONAL EMPLOYEES CREDIT UNION, et al. v. Franchise Tax Board

Sacramento Superior Court Docket No. 511821 Filed - 12/20/89
Court of Appeal, 3rd Appellate District, No. 3-CV-C020733
Taxpayer's Counsel FTB's Counsel
Joanne Garvey, & Teresa Maloney Steven Green
Heller, Ehrman, White & McAuliffe

Issue Whether defendant's determination as to the methodology for deduction of indirect expenses against taxable investment income was proper.

Years 1980 through 1985 Amount \$1,137,006.98

Status On Appeal for decision in favor of Defendant/Respondent, waiting for Court of Appeal to set date for Oral Argument.

FARMER BROS. CO. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC237663 Filed - 09/29/00
Court of Appeal, 2nd Appellate District Court No. 160061
California Supreme Court No. S117131
U.S. Supreme Court No. 03-776
Taxpayer's Counsel Counsel of Record
Robin C. Campbell, Esq. Benjamin F. Miller
Anglin, Flewelling, Rasmussen, Campbell & Trytten, LLP

Issue Whether Section 24402 of the Revenue and Taxation Code is unconstitutional under the United States Constitution.

Years 06/30/92 through 6/30/98 Amount \$814,705.00

Status Petition for Writ of Certiorari denied on February 23, 2004.

FREIDBERG, EDWARD & TRACI E. REYNOLDS v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC-02-404182 Filed - 02/06/02
Taxpayer's Counsel FTB's Counsel
John E. Cassinat & Ronald L. Carello Marguerite Stricklin
Cassinat Law Corporation

Issues 1. Whether Plaintiffs' "horse breeding and racing business expenses" were deductible as business expenses in the years involved.
2. Whether expenses incurred by plaintiffs in horse breeding and racing activities were deductible as business expenses in the years involved.

Years 1991 through 1994 Amount \$149,696.00

Status **Plaintiffs' Memorandum of Costs and Disbursements for Total Costs, filed March 3, 2004.**

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC269404

Filed – 03/06/02

Court of Appeal, 2nd Appellate District No. B165665

Taxpayer's Counsel

Charles R. Ajalat

Law Office of Ajalat, Polley & Ayooob

FTB's Counsel

Stephen Lew, Donald

Currier & Joseph O'Heron

Issues 1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
2. Whether interest income was properly characterized as business income.
3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
5. Whether various receipts from intangible assets were properly excluded from the sales factor.
6. Whether research tax credits were properly limited to the entity incurring the expense.
7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years 1986 through 1988 Amount \$10,692,755.00

Status **Oral Argument held on March 25, 2004. Case submitted March 29, 2004.**

HAMEETMAN, FRED AND JOYCE v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC 305968

Filed – 11/12/03

Taxpayer's Counsel

Eric L. Troff, Esq.

Gibbs, Giden, Locher & Turner, LLP

FTB's Counsel

Donald Currier

Issue Whether Plaintiffs were entitled to a business bad debt reduction.

Years 1990 and 1993 Amount \$65,738.00

Status **Conference-Case Management scheduled for April 8, 2004.**

HARDIE, GEORGE G. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC292256

Taxpayer's Counsel

Richard E. Posell, Gregory P. Korn
Greenberg, Glusker, Fields, Claman,
Machtinger & Kinsella, LLP

Filed – 03/18/03

FTB's Counsel

Anthony Sgherzi
George M. Takenouchi

Issue Whether Plaintiff was a resident of California for the year in issue.

Year 1993 Amount \$1,172,932.00

Status Final Status Conference scheduled for July 8, 2004; Trial commence July 12, 2004.

HYATT, GILBERT P. v. Franchise Tax Board

Clark County Nevada District Court No. A382999

Taxpayer's Counsel

Thomas L. Steffen & Mark A. Hutchison
Hutchison & Steffen
H. Bartow Farr III

Filed - 01/06/98

FTB's Counsel

Felix Leatherwood

Issues

1. Whether plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years 1991 and 1992 Amount \$13,204,611.00

Status Clark County District Court:
Hearing on Motion for Pretrial Conference held on January 26, 2004, and Scheduling Order entered.

JIBILIAN, TONY & DOROTHY v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC298685

Taxpayer's Counsel

Derek L. Tabone, Esq.
Law Offices of Tabone, APC

Filed – 07/09/03

FTB's Counsel

Brian Wesley
Elisa Wolfe-Donato

Issue Whether Plaintiffs have taxable income for the years involved.

Years 1999-2001 Amount \$209,742.00

Status **Notice of Hearing; Defendant's Demurrer to Second Amended Complaint and Memorandum of Points and Authorities in Support Thereof filed on March 3, 2004. Defendant's Notice of Ruling on Demurrer to Second Amended Complaint filed March 24, 2004.**

JIM BEAM BRANDS CO. v. Franchise Tax Board

San Francisco Superior Court No. CGC-02-408203

Taxpayer's Counsel

Edwin P. Antolin

Silverstein & Pomerantz

Jordan M. Goodman, Brian L. Browdy

Horwood, Marcus & Berk

Filed - 05/21/02

FTB's Counsel

George C. Spanos

- Issues
1. Whether the gain realized on the sale of all of the stock of a subsidiary was properly classified as business income.
 2. Assuming the gain on the sale of all of the stock was business, whether the FTB properly computed the basis of the stock.

Year 1987 Amount \$133,042.00

Status Motion for Summary Judgment set for April 8, 2004. Settlement Conference set for April 28, 2004. **Trial scheduled for May 24, 2004.**

K-MART, CORPORATION, et al. v. Franchise Tax Board

U.S. Bankruptcy Court for the Northern District of Illinois

Bankruptcy No. 02-B02474 – Adversary Proceeding No. 03A01420

Taxpayer's Counsel

Charles F. Smith

Skadden, Arps, Slate, Meagher & Flom

Filed – 04/11/03

FTB's Counsel

Michael Cornez

Larry Fischer

- Issues
1. Whether gain realized on the sale of 20+% interest in an Australian retailer, Coles, was business income.
 2. Whether the gain realized on the sale of the interest in Coles was properly treated for AMT purposes.
 3. Whether dividends and interest received with respect to Coles was business income.
 4. Whether the taxpayer's request to account for its Canadian inventory on a LIFO basis was properly denied.
 5. Whether two insurance subsidiaries were properly excluded from the combined report.
 6. If the insurance subsidiaries were includible in the combined report, whether adjustments need to be made to the property and sales factors.
 7. Whether proceeds from the short-term investment of financial assets were properly excluded from the sales factor.
 8. Whether section 24402 is constitutional.
 9. Whether adjustments based upon federal RAR's were correctly made.
 10. Whether there were other unspecified errors in adjustments made or not made to the taxpayer's returns.
 11. Whether an under-payment penalty was properly imposed.

<u>Years</u>	1986-1989, 1992-1994, 1999 & 2000	<u>Amount</u>	\$3,524,625.00 - Tax \$ 82,590.01 - Penalty
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Status Complaint Under 11 U.S.C. § 505 U.S. For Determination of Tax Liability and Refund of Tax Overpayments filed on April 17, 2003.

THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board

Alameda Superior Court Docket No. 837723-0

Filed – 04/09/01

Court of Appeal, 1st Appellate District Court No. A102915

Taxpayer's Counsel

FTB's Counsel

Edwin P. Antolin

Joyce Hee

Morrison & Foerster, LLP

Issues

1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.
2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

<u>Years</u>	1993 and 1994	<u>Amount</u>	\$2,185,718.00
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Status **Plaintiff/Appellants' Reply Brief to be filed on May 10, 2004.**

MARKEN, DONALD W. & CLAUDINE H v. Franchise Tax Board

San Francisco Superior Court Docket No. 302520

Filed - 04/05/99

Court of Appeal, 1st Appellate Dist. No. A091644

California Supreme Court No. S 104529

Taxpayer's Counsel

FTB's Counsel

William E. Taggart, Jr.

Marguerite Stricklin

Taggart & Hawkins

Issue Whether plaintiffs were residents of California in 1993.

<u>Year</u>	1993	<u>Amount</u>	\$244,012.00
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Status Status Conference held on November 6, 2003.

MARRO, DONALD C. AND LILLIAN S. CLANCY v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC 02-414788

Filed – 11/18/02

Court of Appeal, 1st Appellate District Court No. A104139

Taxpayer's Counsel

FTB's Counsel

Donald C. Marro, In Pro Per

Kristian Whitten

Issue Whether assessments based on federal adjustments were timely made.

<u>Years</u>	1993 and 1994	<u>Amount</u>	\$9,267.00
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Status **Appellants' Petition for Rehearing is denied. Appellants' Request for Publication is denied on March 24, 2004.**

THE MCGRAW-HILL COMPANIES, INC., a New York Corporation v. Franchise Tax Board	
San Francisco Superior Court Docket No. CGC 03424737	Filed - 09/24/03
<u>Taxpayer's Counsel</u> Jeffrey M. Vesely, Richard E. Nielsen & Annie H. Huang Pillsbury Winthrop, LLP	<u>FTB's Counsel</u> Anne Michelle Burr

Issues 1. Whether Plaintiff was entitled to use Marked-to-Market accounting allowed under the Internal Revenue Code when those provisions had not been adopted by California.
2. Whether other adjustments made or allowed by the Internal Revenue Service should be allowed by California.

Years 1993 and 1994 Amount \$606,744.00

Status FTB's Motion for Summary of Judgment to be filed May 7, 2004. Mandatory Settlement Conference scheduled for August 3, 2004; Trial scheduled for August 23, 2004.

MICROSOFT CORPORATION v. Franchise Tax Board	
San Francisco Superior Court Docket No. 400444	Filed – 10/19/01
Court of Appeal, 1 st Appellate Dist. Div. 3 No. A105312	
<u>Taxpayer's Counsel</u> James P. Kleier, Esq. Preston Gates & Ellis, LLP	<u>FTB's Counsel</u> Julian O. Standen

Issues 1. Whether the denominator of the receipts factor was properly calculated by excluding receipts from marketable securities.
2. Whether the limitation on the deduction of dividends provided for in Section 24402 discriminates.
3. Whether adjustments made to increase the income of controlled foreign corporations included in the combined report were proper.

Year 1991 Amount \$1,879,809.00

Status **Defendant/Appellant's Second Motion and Declaration of Good Cause for Extension of Time to file Brief on April 23, 2004, filed on March 30, 2004.**

MILHOUS, PAUL B. & MARY A. v. Franchise Tax Board	
San Diego Superior Court Docket No. GIC772282	Filed – 08/27/01
Court of Appeal, 4 th Appellate Dist. Division 1, No. D035601	
<u>Taxpayer's Counsel</u> Steve Mather. Kajan, Mather and Barish	<u>FTB's Counsel</u> Leslie Branman-Smith

Issue Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year 1993 Amount \$227,246.00

Status **Defendant/Appellant's Opening Brief filed with the Court of Appeal on March 1, 2004.**

MILHOUS, ROBERT E. & GAIL P. v. Franchise Tax Board

San Diego Superior Court Docket No. GIC773381

Filed – 08/27/01

Court of Appeal, 4th Appellate Dist. Division 1, No. D035601

Taxpayer's Counsel

FTB's Counsel

Steve Mather.

Leslie Branman-Smith

Kajan, Mather and Barish

Issue Whether the taxpayers had California source income arising from the execution of a covenant-not-to-compete as part of the sale of plaintiffs' minority interest in a business.

Year 1993 Amount \$670,825.00

Status **Defendant/Appellant's Opening Brief filed with the Court of Appeal on March 1, 2004.**

MONTGOMERY WARD LLC v. Franchise Tax Board

San Diego Superior Court Docket No. GIC802767

Filed – 12/30/02

Taxpayer's Counsel

FTB's Counsel

Antolin, Pilar M. Sansone, Amy Silverstein

Gregory Price

Silverstein & Pomerantz, LLP

Issues 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years 1989 through 1994 Amount \$2,694,192.00

Status Case Management Conference held on January 9, 2004.

NEW GAMING SYSTEMS, INC. v. Franchise Tax Board

U.S. District Court For The Eastern Dist. No. CIVS-03-1126

Filed – 05/27/03

First Amended Complaint Filed – 08/25/03

Taxpayer's Counsel

FTB's Counsel

Spencer T. Malysiak

Michael J. Cornez

Spencer T. Malysiak Law Corp.

Issues 1. Whether the federal courts have jurisdiction to review a denial of a claim for refund of state taxes and issue a declaratory judgment as to plaintiff's liability for state taxes.

2. Whether the Indian Gaming Regulatory Act (25 U.S.C. 2701) pre-empts state taxation of income earned by non-Indians from operating a casino.
3. Whether an action can be maintained in federal court against the Board members and Executive Officer as individual under the *Ex Parte Young* doctrine to enjoin the collection of state taxes.

Year 1996 Amount \$2,562.93

Status **Defendants, Steve Westly, Carole Migden, Steve Peace & Gerald Goldberg's Motion to Dismiss Complaint for Lack of Subject Matter Jurisdiction and supporting documents filed March 19, 2004.**

NEW GAMING SYSTEMS, INC. & AKA INDUSTRIES, INC. v. Franchise Tax Board

Superior Court Docket No. 03AS05705

Filed – 10/10/03

Taxpayer's Counsel

FTB's Counsel

Spencer T. Malysiak

Michael Cornez

Spencer T. Malysiak Law Corp.

Issues

1. Whether New Gaming Systems, Inc., timely filed its suit for refund for the income year ended March 31, 1996.
2. Whether a declaratory relief action can be brought to prevent the collection of tax.
3. Whether a suit for refund can be maintained for a year in which the amount of tax has not been paid in full.
4. Whether Plaintiffs are liable for California taxes on income generated from leases for operating Indian casinos.

Years 1996 and 1997 Amount \$90,773.05

Status Court granted a continuance of hearing on Defendant's Demurrer until April 6, 2004.

NOBLE, HOMER E. AND STEPHANIE F. v. Franchise Tax Board

Los Angeles Superior Court Docket No. BC273634

Filed - 05/09/02

Court of Appeal, 2nd Appellate Dist. No. B167881

Taxpayer's Counsel

FTB's Counsel

Richard W. Craigo

Anthony Sgherzi

Attorney At Law

Issue The issue is on what date during 1994 did plaintiffs cease to be residents and domiciliaries of California?

Year 1994 Amount \$151,632.00

Status Defendant/Respondent's Brief filed on January 14, 2004. Plaintiffs/Appellants' Reply Brief filed on January 30, 2004.

ORDLOCK, BAYARD M. & LOIS S. v. Franchise Tax Board

Los Angeles Superior Court Case No. BC278386

Filed – 07/25/02

Court of Appeal, 2nd Appellate Dist. No. B169465Taxpayer's CounselFTB's Counsel

Richard C. Field

Michael R. Weiss

Bingham McCutchen LLP

Issue Whether the tax involved was timely assessed.Year 1983 Amount \$12,350.00Status **Defendant/Respondent's Request for Extension of Time to File Brief, filed on March 9, 2004.****OTN, INC. & AFFILIATES v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC301102

Filed – 08/20/03

Taxpayer's CounselFTB's Counsel

Thomas K. Bourke

Anthony Sgherzi

Law Office of Thomas K. Bourke

Issue Whether Plaintiff is entitled to a deduction for bad debts.Year 1995 Amount \$1,447,375.00Status **Conference-Post Mediation Status held on March 10, 2004. Further Status Conference scheduled for June 22, 2004. Final Status Conference scheduled for September 7, 2004. Trial scheduled for September 13, 2004.****PACIFIC TELESIS GROUP, INC. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 319008

Filed – 02/20/01

Court of Appeal, 1st Appellate Dist. Div. 2 No. A104602Taxpayer's CounselFTB's Counsel

Allan L. Schare

David Lew

McDermott, Will & Emery

Anne M. Burr

Issue What is the proper amount of depreciation deduction with respect to property acquired from former unitary affiliates?Years 1987 through 1990 Amount \$9,960,422.00Status **Plaintiff/Appellant's Appendix and Opening Brief filed March 29, 2004.**

PAINE, THOMAS & TERESA A. NORTON v. Franchise Tax Board

San Francisco Superior Court Docket No. 324518

Filed – 09/13/01

Appellate Court – 1st Appellate Dist. Court No. A102401Taxpayer's CounselFTB's Counsel

Edward Winslow

Marguerite Stricklin

Layman, Lempert & Winslow

Issues 1. Whether the plaintiffs became residents of California on April 10, 1990.
2. Whether "guaranteed payments" received by plaintiffs while residents of California from a partnership could be included in the income taxed by California.

Years 1990, 1996 through 1999 Amount \$144,278.00

Status **Oral Argument scheduled for April 7, 2004.**

THE PILLSBURY COMPANY, a Delaware Corp. v. Franchise Tax Board

San Francisco Superior Court Docket No. 414931

Filed – 11/21/02

Appellate Court – 1st Appellate Dist. Court No. A105155Taxpayer's CounselFTB's Counsel

Jeffrey M. Vesely, Esq.

David Lew

Richard E. Nielsen, Esq.

Pillsbury Winthrop, LLP

Issue Whether California definition of gross income incorporated amendments to the Internal Revenue Code dealing with losses of Alaska Native Corporation.

Years 1986 and 1987 Amount \$1,133,040.00

Status Stipulation Extending Time for Filing Briefs sent by mail on February 11, 2004.

TOY'S "R" US, Inc. & Affiliates v. Franchise Tax Board

Sacramento Superior Court Docket No. 01AS04316

Filed - 07/17/01

Court of Appeal, 4th Appellate Court No. C045386Taxpayer's CounselFTB's Counsel

Eric J. Coffill

Michael J. Cornez

Carley A. Roberts

Issue Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years 1991 through 1994 Amount \$5,342,122.00

Status **Plaintiffs/Appellants' Opening Brief filed March 19, 2004.**

VENTAS, INC. & SUBSIDIARIES v. Franchise Tax Board

San Francisco Superior Court Docket No. CGC03423154

Taxpayer's Counsel

Amy L. Silverstein

Silverstein & Pomerantz, LLP

Filed – 08/05/03

FTB's Counsel

Paul Gifford

Issue Whether Plaintiff elected to use the mark-to-market method of accounting for California purposes.

Year 1997 Amount \$205,874.00

Status **Defendant's Answer to Amended Complaint filed on March 3, 2004.**

WEINGARTEN, SAUL M. v. Franchise Tax Board

San Francisco Superior Court Docket No. 996766

Taxpayer's Counsel

Saul M. Weingarten

Saul M. Weingarten & Associates

Filed - 7/28/98

FTB's Counsel

Marguerite Stricklin

Issues

1. Whether the Board of Equalization followed proper procedures in considering the taxpayer's appeal.
2. Whether taxpayer's real estate investments were subject to passive activity loss limitations.
3. Whether FTB properly calculated depreciation with respect to various properties.
4. Whether FTB properly calculated the sales price of a piece of property sold by the taxpayer.
5. Whether penalties were improperly imposed.

Years 1987 through 1989 Amount \$88,966.00 Tax
\$22,241.75 Penalty

Status Answer to Complaint filed October 27, 1998.

YOO, Won S. and Insook v. Franchise Tax Board

San Diego Superior Court Docket No. GIC807106

Taxpayer's Counsel

Daniel J. Cooper, Esq.

Law Offices of Daniel J. Cooper

Filed – 03/13/03

FTB's Counsel

Leslie Branman Smith

Issue Whether the taxpayers are entitled to a charitable deduction on the sale of property to The Nature Conservatory.

Years 1991 and 1994 Amount \$178,858.00

Status Trial held on January 16, 2004, and continued to January 20, 2004, and January 21, 2004.

YOSHINOYA WEST, INC. v. Franchise Tax Board

Los Angeles Superior Court, Central District No. BC274343

Taxpayer's Counsel

Dwayne M. Horii

William C. Choi

Rodriguez, Horii & Choi

Filed - 05/22/02

FTB's Counsel

Donald R. Currier

- Issues
1. Whether Yoshinoya West, Inc. is involved in a unitary business with its Japanese parent company.
 2. Whether application of the standard allocation and apportionment provision of the Revenue and Taxation Code disproportionately taxed Yoshinoya West.

Years 1986 and 1987 Amount \$1,741,534.00

Status **Final Argument at trial on April 15, 2004.**